REMARKS

The Office Action dated April 6, 2005 contained a final rejection of claims 1-12. The Applicant has amended claims 1, 5, and 9. Claims 1-12 are in the case. Please consider the present amendment with the attached Request for Continued Examination (RCE) under 37 C.F.R. § 1.114. This amendment is in accordance with 37 C.F.R. § 1.114. Reexamination and reconsideration of the application, as amended, are requested.

The Office Action objected to claims 5 and 8 due to minor informalities.

The Applicant has amended claim 5 as suggested by the Examiner to overcome this objection of claims 5 and 8.

The Applicant acknowledges the withdrawal of claims 13-18 in response to a restriction requirement, wherein the Applicant elected claims 1-12 without traverse.

The Final Office Action rejected claims 1, 3, 5, 7, 9, and 11 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the cited Shane reference in view of the cited Pollin reference. The Final Office Action rejected claims 2, 4, 6, 8, 10, and 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the cited Shane reference in view of the cited Pollin reference as applied to claims 1, 3, 5, 7, 9, and 11 above and further in view of the cited Waters et al. reference.

The Applicant respectfully traverses these rejections based on the amendments to the claims and the arguments below.

Independent claims 1, 5 and 9 now include an electronic portable personal data assistant executing a control program configured to process digital financial transactions directly between a user, a payor financial institution of the user, and a payee financial institution of a purchasee and a financial software manager program, wherein financial records stored by the program are automatically updated by the processor after each transaction directly between the user, the payor financial institution of the user, and the payee financial institution of the purchasee.

In contrast, the cited references, in combination or alone, do not disclose all of these this features. For example, the combined references merely disclose automated banking (Shane reference), an automated electronic financial system for collecting payments (Pollin reference), and a fingerprint scanner device (Waters reference). Although Pollin discloses recording and updating financial transactions, Pollin does not allow using a PDA to process digital financial transactions directly between a user, a payor financial institution of the user, and a payee financial institution of a purchasee, like the

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present claimed invention. Instead, Pollin discloses collecting debts in which an "...automated processing system generates a draft, payable to the creditor and drawn on the debtor's checking account, **pursuant to the debtor's authorization**. The draft is then **executed by the debt collector as authorized signatory for the debtor**, and deposited into the creditor's account..." [*emphasis added*] (see col. 4, lines 66-67 through col. 5, lines 1-30 and col. 8, lines 3-15).

In addition, even though the combined references do not disclose, teach or suggest all of the Applicant's features, Pollin **cannot be** combined with Shane and Waters because Pollin teaches away from the Applicant's claimed invention. In particular, Pollin is in direct conflict with the Applicant's claimed invention. For instance, as discussed above, the financial drafts in Pollin are executed by the debt collector as authorized signatory for the debtor, and deposited into the creditor's account, unlike the Applicant's claimed system which allows direct financial transactions between a user, a payor financial institution of the user, and a payee financial institution of a purchasee. Consequently, the intended function and purposes of Pollin, namely, debt collection management and intervention, would be destroyed if a user were allowed to conduct direct transactions with the bank without debt collection management intervention.

It is well settled that when a teaching away exists, the references **should not** and **cannot** be considered together. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). Hence, this "teaching away" prevents obviousness from being established. In addition, the **failure** of the cited references, either alone or in combination, to disclose, suggest or provide motivation for the Applicant's claimed invention also indicates a lack of a prima facie case of obviousness. W.L. Gore& Assocs. V. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983). In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

With regard to the rejection of the dependent claims, because they depend from the above-argued respective independent claims, and they contain additional limitations that are patentably distinguishable over the cited references, these claims are also considered to be patentable (MPEP § 2143.03).

Thus, it is respectfully requested that all of the claims be allowed based on the amendments and arguments. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

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Additionally, in an effort to further the prosecution of the subject application, the Applicant kindly invites the Examiner to telephone the Applicant's attorney at (818) 885-1575 if the Examiner has any questions or concerns. Please note that all correspondence should continue to be directed to:

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Respectfully submitted,
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